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SENATE BILL 17

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2005

INTRODUCED BY

Joseph A. Fidel

AN ACT

**RELATING TO TAXATION; PROVIDING A REBATE FOR A PORTION OF TAXES
IMPOSED FOR THE 2005 TAXABLE YEAR; PROVIDING AN EXEMPTION FROM
STATE INCOME TAX FOR THE 2005 TAXABLE YEAR REBATE; REDUCING
INCOME TAX RATES FOR CERTAIN TAXPAYERS DURING THE 2005 AND 2006
TAXABLE YEARS; PROVIDING FOR A DEDUCTION FROM GROSS RECEIPTS
FOR RETAIL SALES OF CERTAIN TANGIBLE PERSONAL PROPERTY DURING A
LIMITED PERIOD; REPEALING LAWS 2005, CHAPTER 104, SECTION 3;
MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 7-2-7 NMSA 1978 (being Laws 2003,
Chapter 2, Section 4) is amended to read:**

**"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by
Section 7-2-3 NMSA 1978 shall be at the following rates for any
taxable year beginning in 2005:**

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1 excess over \$ 5,500
2 Over \$ 11,000 but not over \$ 16,000 \$ 269.50 plus 4.7% of
3 excess over \$ 11,000
4 Over \$ 16,000 \$ 504.50 plus [~~6.0%~~
5 5.7% of excess over \$
6 16,000.

7 D. For heads of household filing returns:

8 If the taxable income is:

The tax shall be:

9 Not over \$7,000 1.7% of taxable income
10 Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of
11 excess over \$ 7,000
12 Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of
13 excess over \$ 14,000
14 Over \$ 20,000 \$ 625 plus [~~6.0%~~
15 5.7% of
16 excess over \$ 20,000.

17 E. The tax on the sum of any lump-sum amounts

18 included in net income is an amount equal to five multiplied by
19 the difference between:

20 (1) the amount of tax due on the taxpayer's
21 taxable income; and

22 (2) the amount of tax that would be due on an
23 amount equal to the taxpayer's taxable income and twenty
24 percent of the taxpayer's lump-sum amounts included in net
25 income. "

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1 Over \$ 24, 000 \$ 768 plus 5.3% of
2 excess over \$ 24, 000.

3 C. For single individuals and for estates and
4 trusts:

| 5 If the taxable income is: | 6 The tax shall be: |
|--|----------------------------|
| 7 Not over \$5, 500 | 8 1.7% of taxable income |
| 9 Over \$ 5, 500 but not over \$ 11, 000 | 10 \$ 93.50 plus 3.2% of |
| | 11 excess over \$ 5, 500 |
| 12 Over \$ 11, 000 but not over \$ 16, 000 | 13 \$ 269.50 plus 4.7% of |
| | 14 excess over \$ 11, 000 |
| 15 Over \$ 16, 000 | 16 \$ 504.50 plus 5.3% of |
| | 17 excess over \$ 16, 000. |

18 D. The tax on the sum of any lump-sum amounts
19 included in net income is an amount equal to five multiplied by
20 the difference between:

21 (1) the amount of tax due on the taxpayer's
22 taxable income; and

23 (2) the amount of tax that would be due on an
24 amount equal to the taxpayer's taxable income and twenty
25 percent of the taxpayer's lump-sum amounts included in net
income."

Section 3. A new section of the Income Tax Act is enacted
to read:

"[NEW MATERIAL] TAX REBATE--2005 TAXABLE YEAR. --

A. Except as otherwise provided in this section,

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1 any resident who files an individual New Mexico income tax
2 return and who is not a dependent of another individual is
3 entitled to a tax rebate during the 2005 taxable year for a
4 portion of state and local taxes to which the person has been
5 subject during the 2005 taxable year, even if the resident has
6 no income taxable pursuant to the Income Tax Act.

7 B. For the purposes of this section, the total
8 number of exemptions for which a tax rebate may be claimed or
9 allowed is determined by adding the number of federal
10 exemptions allowable for federal income tax purposes for each
11 individual; provided that, in the case of a husband and wife
12 who have filed a joint return where only one individual is a
13 New Mexico resident, the number of exemptions shall be reduced
14 by one.

15 C. Except as otherwise provided in Subsection D of
16 this section, the tax rebate provided for in this section is
17 allowed for the amount shown in the following table:

18 Adjusted Gross Income is: And the total number of exemptions is:

| Over | But Not Over | 1 | 2 | 3 | 4 | 5 | 6 or more |
|--------|--------------|-------|-------|-------|-------|-------|-----------|
| \$0 | \$10,000 | \$130 | \$170 | \$205 | \$235 | \$260 | \$280 |
| 10,000 | 20,000 | 115 | 150 | 180 | 205 | 225 | 240 |
| 20,000 | 35,000 | 100 | 130 | 155 | 175 | 190 | 200 |

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| | | | | | | | | |
|---|---------|---------|----|-----|-----|-----|-----|------|
| 1 | 35, 000 | 45, 000 | 85 | 110 | 130 | 145 | 155 | 160 |
| 2 | 45, 000 | 60, 000 | 70 | 95 | 115 | 130 | 140 | 145 |
| 3 | 60, 000 | | 55 | 75 | 90 | 100 | 105 | 110. |

4 D. If a resident's adjusted gross income is less
5 than or equal to zero, the resident is entitled to a rebate in
6 the amount shown in the first row of the table appropriate for
7 the resident's number of exemptions.

8 E. Except as otherwise provided in this section,
9 the secretary shall make an advance payment of the tax rebate
10 provided for in this section not later than December 15, 2005
11 to each resident who filed a 2004 New Mexico personal income
12 tax return. Advance payment amounts shall be based on the
13 number of federal exemptions allowable for federal income tax
14 purposes on the 2004 New Mexico personal income tax return of
15 the resident for whom a rebate is allowed pursuant to this
16 section and on the federal adjusted gross income reported by
17 that resident on the same return. A resident who does not
18 receive an advance payment may claim the tax rebate provided
19 for in this section on that resident's 2005 New Mexico personal
20 income tax return based on the federal adjusted gross income
21 and on the number of federal exemptions allowable for federal
22 income tax purposes reported on that return.

23 F. The department shall not make an advance payment
24 of the tax rebate provided for in this section to a person who:

- 25 (1) was an inmate of a public institution for

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1 more than six months during the 2004 taxable year; or

2 (2) was not a resident of New Mexico on the
3 last day of the 2004 taxable year.

4 G. The department shall not allow a tax rebate
5 provided in this section to a person who claims the rebate on
6 that person's 2005 personal income tax return, but:

7 (1) was an inmate of a public institution for
8 more than six months during the 2005 taxable year; or

9 (2) was not a resident of New Mexico on the
10 last day of the 2005 taxable year.

11 H. The secretary may adopt regulations necessary to
12 administer the provisions of this section.

13 I. For purposes of this section, "dependent" means
14 "dependent" as defined by Section 152 of the Internal Revenue
15 Code, but also includes any minor child or stepchild of the
16 resident who would be a dependent for federal income tax
17 purposes if the public assistance contributing to the support
18 of the child or stepchild was considered to have been
19 contributed by the resident. "

20 Section 4. A new section of the Income Tax Act is enacted
21 to read:

22 "[NEW MATERIAL] EXEMPTION-- 2005 TAXABLE YEAR REBATE. -- The
23 tax rebate made for the 2005 taxable year pursuant to this 2005
24 act is exempt from state income tax. "

25 Section 5. TEMPORARY PROVISION-- DEDUCTION-- GROSS RECEIPTS

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1 TAX-- SALES OF TANGIBLE PERSONAL PROPERTY-- LIMITED PERIOD. --

2 Receipts from the sale at retail of any item of tangible
3 personal property may be deducted from gross receipts if the
4 sale of the property occurs during the period beginning at
5 12:01 a.m. on December 2, 2005 and ending at midnight on
6 December 4, 2005 and if the sales price of the item is less
7 than five hundred dollars (\$500).

8 Section 6. APPROPRIATION.--Five hundred thousand dollars
9 (\$500,000) is appropriated from the general fund to the
10 taxation and revenue department for expenditure in fiscal years
11 2006 and 2007 to administer the tax rebate provided for in
12 Section 3 of this 2005 act. Any unexpended or unencumbered
13 balance remaining at the end of fiscal year 2007 shall revert
14 to the general fund.

15 Section 7. REPEAL.--Laws 2005, Chapter 104, Section 3 is
16 repealed.

17 Section 8. APPLICABILITY.--

18 A. The provisions of Sections 1, 3 and 4 of this
19 act apply to the taxable year beginning on January 1, 2005 and
20 ending on December 31, 2005.

21 B. The provisions of Section 2 of this act apply to
22 taxable years beginning on or after January 1, 2006 and ending
23 before or on December 31, 2007.

24 Section 9. EMERGENCY.--It is necessary for the public
25 peace, health and safety that this act take effect immediately.

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